STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of JASMINE LYNN CHAPMAN, CORNELIUS JAMES CHAPMAN, and CORTEZ MICHAEL CHAPMAN, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

YOLANDA YVETTE CHAPMAN,

Respondent-Appellant.

UNPUBLISHED
November 16, 2006

No. 270774
Oakland Circuit Court
Family Division
LC No. 00-631272-NA

Before: Fort Hood, P.J., and Murray and Donofrio, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (c)(i), and (g). Because petitioner established by clear and convincing evidence at least one statutory ground for termination of parental rights and the record as a whole fails to establish by clear evidence that termination is not in the children's best interests, we affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The children were removed in June 2005, after respondent left them with a friend who delivered them to respondent's mother after several days. Respondent had a long-standing and severe addiction to cocaine and heroin, and Children's Protective Services had received a number of referrals on the family. The children had been in foster care previously in Muskegon County, and Jasmine was in foster care in Oakland County as an infant. Respondent had tried many substance abuse treatment programs, only to relapse each time. On this most recent occasion, she relapsed at least twice and left or was dismissed from two programs. She was unable to attend visitations because she never complied with the court's requirement of two consecutive clean screens. Just before the pretrial, in March 2006, respondent entered a long-term inpatient treatment program in Atlanta, Georgia. Respondent believed that she needed to get away from the Detroit area to succeed. The court and DHS urged her to attend, although DHS did not refer her to the program. Thereafter, her attorney moved to adjourn on the first day of the termination hearing. The court denied the motion, but agreed to bifurcate the hearing and hold a separate hearing on the best interests of the children.

We find no error or abuse of discretion in the trial court's denial of respondent's motion to adjourn. The grant or denial of a motion to adjourn is within the sound discretion of the trial court. *In re Krueger Estate*, 176 Mich App 241, 247-248; 438 NW2d 898 (1989). An adjournment may be granted on the ground of unavailability of a witness or evidence only if the court finds the evidence material and that diligent efforts were made to produce the witness or evidence. MCR 2.503(C)(2). Here, the hearing was originally scheduled for March 17, 2006. This scheduling was done in respondent's presence and with no objection. The hearing was then rescheduled to April 3, apparently on the court's own motion, in an order issued March 2, 2006. Respondent thus should have had ample notice of the hearing. Also, respondent did attend and testify at the best interests hearing. The delay may actually have benefited her, because she had had another six and a half weeks in treatment and may have been better able to support her arguments that she was complying with her program.

We further find no denial of respondent's right to due process of law in the court's denial of the adjournment. See *In re Brock*, 442 Mich 101, 111; 499 NW2d 752 (1993); *In re Vasquez*, 199 Mich App 44, 46-47; 501 NW2d 231 (1993).

The trial court did not clearly err in finding clear and convincing evidence to establish the statutory grounds for termination of respondent's parental rights under MCL 712A.19b(3)(c)(i) and (g). MCR 3.977(J); *In re Trejo*, 462 Mich 341, 343; 612 NW2d 407 (2000). Respondent did not substantially complete her parent agency agreement (PAA), despite being given many referrals and a reasonable time and opportunity to comply. Failure to substantially comply with a court-ordered treatment plan is evidence of ongoing neglect. *Trejo, supra* at 360-361 n 16. While the conditions of adjudication did not precisely continue at the time of the termination hearing, respondent was not then ready to resume custody of the children. Her treatment program was expected to last at least another nine to eighteen months. Respondent was not sure whether she would then return to Michigan or stay in Georgia. In either event, this was not a reasonable time under subsections (c)(i) and (g). The court did not have to make the children wait longer to see if respondent would succeed, especially given her long-term history of neglect, substance abuse, and instability. Finally, the evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); MCR 3.977(J); *Trejo, supra* at 353. While there was a bond between respondent and the children, respondent continued to abuse drugs, as she had for most of the children's lives. She lacked stable housing and employment and did not substantially comply with her PAA. The children need a permanent, drug-free, safe, stable home, which respondent is unable to provide. The court did not clearly err in its ruling concerning the children's best interests.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Christopher M. Murray
/s/ Pat M. Donofrio